

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 23-61354-CV-MIDDLEBROOKS/AUGUSTIN-BIRCH

PROGRESSIVE EXPRESS INSURANCE COMPANY,
Plaintiff(s)

vs.

RASIER-DC, LLC, et al.,
Defendant(s).

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ORDER REFERRING CASE AND SETTING TRIAL DATE

PLEASE TAKE NOTICE that the above-entitled cause is hereby set for Trial before the Honorable Donald M. Middlebrooks, United States District Judge, at United States District Court at 701 Clematis Street, Second Floor, Courtroom 7, West Palm Beach, Florida, **during the two-week trial period commencing March 25, 2024 at 9:00 a.m.**, or as soon thereafter as the case may be called. PLEASE TAKE FURTHER NOTICE that a **Calendar Call will be held on Wednesday, March 20, 2024 at 1:15 p.m. ALL COUNSEL MUST BE PRESENT.**

JURY TRIALS. By the dates set forth in the pretrial scheduling order, counsel shall submit proposed jury instructions with the substantive charges and defenses, verdict forms, and motions in limine, if any. Jury instructions shall be filed on the docket and a copy shall be submitted in Word format directly to middlebrooks@flsd.uscourts.gov. To the extent these instructions are based upon the Eleventh Circuit Pattern Jury Instructions, counsel shall indicate the appropriate Eleventh Circuit Pattern Jury Instruction upon which their instruction is modeled. All other instructions shall include citations to relevant supporting case law. The Eleventh Circuit Pattern Jury Instructions Builder is available at <https://pji.ca11.uscourts.gov>.

At jury selection, the Court will conduct voir dire. The Parties may, but are not required to, submit voir dire questions to the Court. After the Court questions the jury venire, the Parties will each have a limited amount of time, to be determined at Calendar Call, to question the jury venire. After the Court determines which members of the jury venire should be dismissed for cause, each side will be allowed three peremptory challenges, with no backstriking. As soon as the jury is selected, the jury will be sworn, preliminary instructions will be given, and the case will begin with opening statements.

Side bars are not generally permitted. The Parties shall raise any anticipated issues prior to trial or during a break, outside the presence of the jury. Should the Court need to address an issue, the jury likely will be excused for a break.

BENCH TRIALS. In cases tried before the Court, each party shall file by the deadline set forth in the pretrial scheduling order, the proposed Findings of Fact and Conclusions of Law. An additional copy shall be sent in Word format to the chambers e-mail account listed above.

EXHIBITS. Prior to any trial, counsel shall submit to the Court a typed list of proposed witnesses and/or exhibits. All exhibits must be pre-labeled in accordance with the proposed exhibit list. Exhibit labels must include the case number. At least two-weeks before trial, the parties shall file their deposition designations along with objections in the event there are any.

The Parties exhibit list should be prepared using the Administrative Office's form 187 (AO-187). The Parties are responsible for complying with the Southern District of Florida's Administrative Order 2016-70, which was entered on November 22, 2016, concerning the electronic submission of admitted exhibits.¹ It is further

¹ Note that any exhibits admitted during a hearing are also required to be filed electronically on the docket after the hearing. See Administrative Order 2016-70.

ORDERED AND ADJUDGED, pursuant to 28 U.S.C. § 636 (b)(1)(A) and the Magistrate Judge Rules of the Local Rules of the Southern District of Florida, the above-captioned cause is hereby referred to **United States Magistrate Judge Panayotta Augustin-Birch** to conduct a Scheduling Conference, pursuant to Local Rule 16.1.B, for the purpose of setting pre-trial deadline dates, for determining possible consent to the jurisdiction of the Magistrate Judge for trial, and for the purpose of setting any settlement conferences in lieu of or in addition to mediation if the parties so request. Judge Augustin-Birch shall retain jurisdiction to resolve any disputes arising from the aforementioned proceeding(s). All counsel of record will be required to attend this conference which will be noticed by Magistrate Judge Augustin-Birch. Copies of any and all filings related to such scheduling conference, including proposed orders, must be sent directly to Judge Augustin-Birch at augustin-birch@flsd.uscourts.gov.

Further, any request to modify the above-set trial date must be made prior to the Scheduling Conference. The foregoing does not preclude consideration of a prompt motion to modify the trial date for good cause shown by a party joined in the litigation after the Scheduling Conference has occurred.

The parties are directed, in accordance with CM/ECF procedures, as follows:

COURTESY COPIES: Notwithstanding the implementation of CM/ECF, all parties shall deliver a courtesy copy to the Intake Section of the Clerk's Office all motions exceeding twenty-five pages. This copy shall be bound and any attachments and/or appendices must be indexed with tabs.

PROPOSED ORDERS: Pursuant to the CM/ECF Administrative Procedures, counsel shall send proposed orders in Word format for ALL motions directly to middlebrooks@flsd.uscourts.gov.²

DONE AND ORDERED, in Chambers, at West Palm Beach, Florida, this 20th day of July, 2023.

A handwritten signature in black ink, appearing to read "Donald M. Middlebrooks", written over a horizontal line.

Donald M. Middlebrooks
United States District Judge

cc: Honorable Panayotta Augustin-Birch
All Counsel of Record

² This does not apply to orders relating to Judge Augustin-Birch's scheduling conference discussed above.